

EXHIBIT 4

L9oWg0oC

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x

4 In re GOOGLE DIGITAL
5 ADVERTISING ANTITRUST LITIGATION

21 MDL 3010 (PKC)

6 Conference
7 -----x

8 New York, N.Y.
9 September 24, 2021
10 11:00 a.m.

12 Before:

13 HON. P. KEVIN CASTEL,

14 District Judge

15 APPEARANCES

16 BOIES SCHILLER FLEXNER LLP
17 Attorneys for Proposed Publisher Classes Plaintiffs
18 The Nation, The Progressive and Genius Media

19 BY: DAVID BOIES
20 PHILIP C. KOROLOGOS
21 -and-

22 KOREIN TILLERY LLC
23 BY: GEORGE A. ZELCS
24 -and-

25 BERGER MONTAGUE PC
BY: ERIC L. CRAMER
CAITLIN G. COSLETT

KELLOGG, HANSEN, TODD, FIGEL & FREDERICK, P.L.L.C.
Attorneys for Daily Mail Publisher Plaintiffs
Associated Newspapers and Mail Media

BY: JOHN THORNE

HERMAN JONES LLP
Attorneys for Newspaper Publisher Plaintiffs
Emmerich, HD Media, Coastal Point, Journal,
ECENT, Clarksburg, Flag, Eagle, AIM Media Midwest,
AIM Media Texas, Gale Force,
AIM Media Indiana and Brown County

BY: JOHN HERMAN
SERINA M. VASH

L9oWgooC

1 APPEARANCES CONTINUED
23 W. MARK LANIER
4 -and-
5 ASHLEY C. KELLER
6 Attorneys for State Attorneys General Plaintiffs7 COOPER & KIRK, PLLC
8 Attorneys for Plaintiff State of Montana
9 BY: DAVID H. THOMPSON10 ZWERLING, SCHACHTER & ZWERLING, LLP
11 Attorneys for Plaintiffs
12 SPX, SkinnySchool and Mint Rose
13 BY: FREDERICK T. ISQUITH, Sr.
14 FREDERICK T. ISQUITH, Jr.15 MOGIN RUBIN LLP
16 Attorneys for Cliffy Care Plaintiffs
17 BY: JONATHAN L. RUBIN
18 JENNIFER M. OLIVER19 GIRARD SHARP LLP
20 Attorneys for Advertiser Class Plaintiffs
21 Hanson Law Firm, Surefreight and Lindo
22 BY: SCOTT M. GRZENCZYK
23 -and-24 ADHOOT & WOLFSON, PC
25 BY: BRADLEY K. KING
-and-
TAUS CEBULASH & LANDAU
BY: ARCHANA TAMOSHUNAS18 WILSON SONSINI GOODRICH & ROSATI, P.C.
19 Attorneys for Defendants Google, Alphabet and YouTube
20 BY: JUSTINA K. SESSIONS
21 JONATHAN M. JACOBSON
22 -and-23 FRESHFIELDS BRUCKHAUS DERINGER LLP
24 BY: ERIC MAHR
25 ROBERT McCALLUM
-and-
AXINN, VELTROP & HARKRIDER LLP
BY: JOHN D. HARKRIDER24 CRAVATH, SWAINE & MOORE LLP
25 Attorneys for Defendant Facebook
BY: KEVIN J. ORSINI

L9oWgooC

1 period of time after the decision on the motion to dismiss.

2 Now, with regard to organization, I can't get you
3 organized entirely on my own. I probably could; you wouldn't
4 like it very much. So it does seem to me that what we need to
5 have happen is, in the short term, a meeting at which a
6 reasonable number of representatives, maybe two from the state,
7 and representatives from the publisher class action --

8 There's only one publisher class action, is that
9 right, Mr. Boies?

10 MR. BOIES: Yes. One publisher class action, two
11 classes within it.

12 THE COURT: Two classes within it. Got it.

13 And then we have 13 of the 14 individual publisher
14 actions represented by the Herman Jones firm. Is the 14th the
15 Associated Newspapers case?

16 MS. VASH: Yes, sir, it is.

17 THE COURT: All right. Well, we'll talk about that in
18 a moment.

19 So it would be representatives from the state case,
20 the publisher class, the Herman Jones law firm and, for the
21 moment, from the three advertiser class actions.

22 The three advertiser class action counsel don't have
23 to be happy about anything that's gone on so far in this case,
24 but they need to be accepting of where they are, and the
25 advertiser class actions need to get together in a room and

L9oWgooC

1 talk, because what happens is, ultimately, if you're not able
2 to speak with approximately one voice on issues, I will have to
3 put some sort of a structure in place. I would rather you work
4 on that on your own, but there should also be representatives
5 of the advertiser class actions.

6 That is not the most unmanageable sized group I've
7 ever heard of in an MDL kind of a context. You should be able
8 to sit around a reasonably sized conference table and talk.
9 And yes, I think it's fair for you to work up ESI protocols,
10 even a Rule 34 demand. I'm not opposed to your having to seek
11 leave from me. If there is a consolidated Rule 34 demand that
12 you want to serve, the time to respond is going to be stayed,
13 but the clock will be ticking so that Google will not be able
14 to say, My God, I just got this on Tuesday and it's going to
15 take me months to figure out what's within the scope of this,
16 etc. But it will at least enable you to start the process of
17 negotiating the scope of a Rule 34 demand and to discuss that.

18 Now, I didn't give you permission to serve a Rule 34
19 demand. I'm encouraging you to discuss it and see whether you
20 can come to an agreement. And if you come back and say:
21 Judge, we're all on board. We have 19 Rule 34 demands that
22 each of us wants to serve, and there might be a little overlap
23 here or there, that's not going to happen. So it behooves you
24 to try and get on the same page so we can make progress on
25 that.

L9oWgooC

1 I'm going to deputize Mr. Lanier and Mr. Boies to
2 figure out when and where, whether you do it in person or by
3 Zoom, or however and report back.

4 Mr. Lanier is sub-designating Mr. Boies. In any
5 event --

6 MR. LANIER: We will see to it, your Honor.

7 THE COURT: OK.

8 MR. RUBIN: Your Honor, a point of clarification?

9 THE COURT: Yes.

10 MR. RUBIN: With respect to the meeting that your
11 Honor is encouraging of the advertiser class, do you mean to
12 include the Surefreight in re consolidated cases together with
13 all the other cases that have advertiser class plaintiffs? Do
14 I understand that correctly, your Honor?

15 THE COURT: Yes. Well, there are three of them.
16 There's SPX and Skinny with one counsel for that. There's
17 Cliffy Care and there's Surefreight. That's three, so it's not
18 yet a totally unmanageable number. All right?

19 MR. RUBIN: Thank you, your Honor.

20 THE COURT: But wholly apart from the big meeting, I'm
21 charging counsel in the three advertiser class actions to meet
22 and confer.

23 Yes, sir.

24 MR. GRZENCZYK: For the Surefreight class, your Honor,
25 that sounds great to us. I think it's been conveyed in our

L9oWgooC

1 letter response to PTO1, we're happy to try and work with and
2 create a consolidated group along with the other advertiser
3 classes.

4 I would note that in the Surefreight case we've
5 previously served Rule 34 requests, so we'll distribute those
6 to everyone else --

7 THE COURT: That's great.

8 MR. GRZENCZYK: -- to try and facilitate this
9 discussion of how this might get revised, reflected, and
10 received and used.

11 THE COURT: That's great. That sounds terrific.

12 Mr. Isquith.

13 MR. ISQUITH JR.: For SPX, your Honor, we're happy to
14 meet and confer with our colleagues and hopefully work out the
15 differences in our classes because we do note there are some
16 significant differences in the classes and we'll do our best to
17 work together.

18 THE COURT: Yes. You might all have noticed that it's
19 not often that there are overlapping classes certified by the
20 same judge.

21 MR. GRZENCZYK: This is not the first time we've been
22 in this situation and we've been able to work it out in past
23 cases.

24 THE COURT: Right.

25 MR. GRZENCZYK: I'm sure we can figure it out here.